* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ LPA 1763/2006

D.T.C. ..... Appellant
Through Mr. Hanu Bhaskar, Advocate.

versus

ISHWAR SINGH & ORS. ..... Respondents

Through Mr. T.K. Samanta, Advocate.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV KHANNA

O R D E R

% 16.01.2009

C.M. No. 15445/2008

1. This is an application by the respondent-workman for recall of the order dated 14th August, 2007 disposing of the Letters Patent Appeal on the basis of compromise recorded before the Mediation and Conciliation Centre. It is alleged in the application that the respondent-workman was pressurized to accept settlement by the learned Mediator, who is an advocate on the panel of the Delhi Transport Corporation. The settlement agreement dated 7th May, 2007 is questioned.

2. We do not find any merit in the present application. Order sheet reveals that during the pendency of the present appeal, with

the consent of the parties, by order dated 1st May, 2007 the matter was referred to the Delhi high Court Mediation and Conciliation Centre. Respondent No. 1 workman-applicant was present on the said date in person and had agreed to try settlement through mediation. Thereafter, DTC and the respondent-workman appeared before the Mediation Centre and the compromise agreement dated 7th May, 2007 was recorded. The compromise agreement is not only signed by the respondent-workman but by his family members i.e. his wife and two daughters. It is, therefore, not possible to accept the plea of the respondent-workman that the compromise was a result of force, coercion and pressure put by the Mediator.

3. Pursuant to the settlement agreement, the respondent was reinstated as a conductor with effect from 9th May, 2007 but with the respondent-workman giving up his claim for back wages except the amount paid to him under Section 17B of the Industrial Disputes Act. In other words, the appellant-DTC had given up their challenge to the award directing reinstatement of the workman and the respondent-workman had given up his claim to 30% of the back wages, but the respondent-workman was entitled to payments under Section 17B of the Industrial Disputes Act. Further, as per the terms of the settlement, the reinstatement was to be counted for the purpose of service benefit including pension, gratuity and seniority and an order

to this effect was also passed on 14th August, 2007 clarifying that in case the respondent-workman has any grievance, he could take up the issue with the competent authority.

4. The respondent-workman has taken advantage of the said settlement. The appellant-corporation have also acted upon the settlement agreement. This application for recall of the order dated 14th August, 2007 was filed after more than 14 months on 21st October, 2008. The application reveals that the respondent was paid Rs.2,51,884/- upon reinstatement.

For the reasons stated above, the application is dismissed.

CHIEF JUSTICE

SANJIV KHANNA, J.

JANUARY 16, 2009
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